

FORM PTD-1150 (U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE (REV. 5-79)) TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 9052-87 U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)
INTERNATIONAL APPLICATION NO. PCT/GB00/00537	INTERNATIONAL FILING DATE September 4, 1997	PRIORITY DATE 09/01/1997 September 4, 1996
TITLE OF INVENTION LATENCY-ASSOCIATED REGULATORY REGION FROM HERPESVIRUS SAIMIRI (HVS)		
APPLICANT(S) FOR DO/EO/US Alexander Fred Markham; Adrian Whitehouse		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1). 4. <input checked="" type="checkbox"/> A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date. 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) a. <input checked="" type="checkbox"/> is transmitted herewith (required only if not transmitted by the International Bureau). b. <input type="checkbox"/> has been transmitted by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> A translation of the International Application into English (35 U.S.C. 371(c)(2)). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) a. <input type="checkbox"/> are transmitted herewith (required only if not transmitted by the International Bureau). b. <input checked="" type="checkbox"/> have been transmitted by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. <input type="checkbox"/> A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).		
Items 11. to 16. Below concern other document(s) or information included:		
11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 C.F.R. 1.97 and 1.98 and copies of cited references. 12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. <input checked="" type="checkbox"/> A FIRST preliminary amendment. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 14. <input type="checkbox"/> A substitute specification. 15. <input type="checkbox"/> A change of power of attorney and/or address letter. 16. <input checked="" type="checkbox"/> Other items or information: International Search Report; International Preliminary Examination Report with Annexes; PCT Published Application WO 00/49167; Letter: Application Filed under 1.41(c); claims as amended in PCT.		

U.S. APPLICATION NO. (If known, use 37 CFR 1.53)		INTERNATIONAL APPLICATION NO.		ATTORNEY'S DOCKET NUMBER	
09/913970		PCT/GB00/00537		9052-87	
17. [X] The following fees are submitted:				CALCULATIONS	PTO USE ONLY
Basic National Fee (37 CFR 1.492(a)(1)-(5)): Search Report has been prepared by the EPO or JPO \$840.00 International preliminary examination fee paid to USPTO (37 CFR 1.482) \$670.00 No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2)) \$760.00 Neither international preliminary examination fee (37 CFR 1.482) Nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$970.00 International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(1)-(4) \$96.00					
ENTER APPROPRIATE BASIC FEE AMOUNT = \$840.00				\$ 840.00	
Surcharge of \$130.00 for furnishing the oath or declaration later than [] 20 [X] 30 months from the earliest claimed priority date (37 CFR 1.492(e)).				\$ 130.00	
Claims	Number Filed	Number Extra	Rate		
Total Claims	31 - 20 =	11	X \$18.00	\$198.00	
Independent Claims	4 - 3 =	1	X \$78.00	\$78.00	
Multiple dependent claim(s) (if applicable) none			+ \$260.00	\$	
TOTAL OF ABOVE CALCULATIONS =				\$1,246.00	
Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity statement must also be filed. (Note 37 CFR 1.9, 1.27, 1.28).					
SUBTOTAL =				\$623.00	
Processing fee of \$130.00 for furnishing the English translation later than [] 20 [] 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$	
TOTAL NATIONAL FEE =				\$	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property +				\$	
TOTAL FEES ENCLOSED =				\$623.00	
				Amount to be refunded \$	
				charged \$	
a. [X] A check in the amount of \$623.00 to cover the above fees is enclosed.					
b. [] Please charge my Deposit Account No. 50-0550 in the amount of \$_____ to cover the above fees. A duplicate copy of this sheet is enclosed.					
c. [X] The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0220.					
NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.					
SEND ALL CORRESPONDENCE TO:					
Sorcini J. Biswas Myers Bigel Sibley & Sajovec Post Office Box 37428 Raleigh, North Carolina 27627					
"Express Mail" mailing label number EL73399272905 Date of Deposit August 17, 2001 I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner for Patents, DOUS, Washington, D.C. 20231 Meredith Schuessler Meredith Schuessler Date: August 17, 2001					
Sorcini J. Biswas ATTORNEY OF RECORD 39,111 REGISTRATION NUMBER					



#4.

Patent Docket No. 9052-87

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Markham et al.

Serial No. 09/913,970

International Appln. No. PCT/GB00/00537

International Filing Date: February 18, 2000

For: LATENCY-ASSOCIATED REGULATORY REGION

FROM HERPESVIRUS SAIMIRI HVS

Date: March 22, 2002

Commissioner for Patents

Washington, DC 20231

Attn: DO/EO/US

**STATEMENT IN SUPPORT OF FILING A
SEQUENCE LISTING UNDER 37 CFR § 1.821(f)**

Sir:

I hereby state that the content of the paper and computer readable copies of the Sequence listing, submitted concurrently herewith in accordance with 37 CFR § 1.821(c) and (e), are the same. I also hereby state as required by 37 CFR § 1.821(h) that the paper and computer readable copies contain no new matter, nor do they go beyond the disclosure of the application as filed.

The paper and computer readable copies of the Sequence listing are being submitted in response to the Notice of Missing Requirements of October 25, 2001.

Respectfully submitted,

Karen A. Magri

Registration No. 41,965

Customer Number:



20792

PATENT TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: DO/EO/US, Commissioner for Patents, Washington, DC 20231, on March 22, 2002.

Sloan Hobbs

09/13/970-032802

Attorney's Docket No. 9052-87

PATENT

IN THE UNITED STATES DESIGNATED OFFICE (DO/US)

In re: Application of Markham et al.
Serial No.: To be Assigned
Filed: Concurrently Herewith
For: LATENCY-ASSOCIATED REGULATORY REGION
FROM HERPESVIRUS SAIMARI

Date: August 17, 2001

DO/EO/US
Assistant Commissioner for Patents
Washington, DC 20231

PRELIMINARY AMENDMENT

Sir:

Prior to the examination of the above application, please amend the above-identified application as follows. Please enter the following amendments prior to the calculation of the filing fee.

In the Specification:

Please make the following amendments to the specification:

On page one of the application, after the Title of the Invention, please insert the following:

Related Application Information

This application claims priority under 35 U.S.C. § 371 from PCT Application No. PCT/GB00/00537 (published under PCT Article 21(2) in English), filed on February 18, 2000, which claims the benefit of Great Britain Application Serial No. 9903694.9, filed on February 19, 1999, the disclosures of which are incorporated by reference herein in their entireties.

In the Claims:

Please delete Claims 5-6, 8, 10, 13, and 15-24.

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Please **amend** the claims to read as follows:

1(Amended). An isolated nucleic acid which encodes a latency promoter, comprising a nucleic acid selected from the group consisting of: (a) the nucleic acid sequence as set forth in SEQ ID NO:1; and (b) a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1.

2 (Amended). A nucleic acid according to Claim 1 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

3 (Amended). A nucleic acid according to Claim 1 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

4 (Amended). A nucleic acid according to Claim 3 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

7 (Amended). A recombinant DNA molecule containing at least one insert that encodes a latency promoter, comprising a nucleic acid sequence selected from the group consisting of: (a) the nucleic acid sequence as set forth in SEQ ID NO:1; and (b) a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1.

9 (Amended). A gene therapy system comprising a vector that encodes a latency promoter, comprising a nucleic acid sequence selected from the group consisting of: (a) the nucleic acid sequence as set forth in SEQ ID NO:1; and (b) a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1., wherein said system is capable of driving heterologous gene expression during periods of latent infection by the vector in a target cell population.

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11(Amended). A gene therapy system according to Claim 10 wherein the vector additionally comprises at least one therapeutic nucleic acid, expression of which is driven by the latency promoter.

12 (Amended). A gene therapy system according to Claim 9 wherein the vector is selected from the group consisting of viral vectors and non-viral vectors.

14 (Amended). An HVS comprising a nucleic acid sequence encoding a latency promoter, wherein the nucleic acid sequence is selected from the group consisting of: (a) the nucleic acid sequence as set forth in SEQ ID NO:1; and (b) a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1., the latency promoter acting in the latent state and the sequence encoding the latency promoter being positioned so as to drive expression of at least one therapeutic nucleic acid which has been inserted in the HVS.

Please add the following new claims:

25. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject a nucleic acid according to Claim 1 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

26. A pharmaceutical composition comprising the nucleic acid of Claim 1 and a pharmaceutically acceptable carrier.

27. The pharmaceutical composition of Claim 26, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

28. The recombinant DNA molecule according to Claim 7 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

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29. The recombinant DNA molecule according to Claim 7 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

30. The recombinant DNA molecule according to Claim 29 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

31. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the recombinant DNA molecule according to Claim 7 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

32. A pharmaceutical composition comprising the recombinant DNA molecule of Claim 7 and a pharmaceutically acceptable carrier.

33. The pharmaceutical composition of Claim 32, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

34. The gene therapy system according to Claim 9 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

35. The gene therapy system according to Claim 9 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

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36. The gene therapy system according to Claim 35 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

37. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the gene therapy system according to Claim 9 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

38. A pharmaceutical composition comprising the gene therapy system of Claim 9 and a pharmaceutically acceptable carrier.

39. The pharmaceutical composition of Claim 38, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

40. The HVS according to Claim 14 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

41. The HVS according to Claim 14 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

42. The HVS according to Claim 41 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

43. The HVS according to Claim 14, further comprising at least one therapeutic nucleic acid, expression of which is driven by the latency promoter.

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44. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the HVS according to Claim 14 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

45. A pharmaceutical composition comprising the HVS of Claim 14 and a pharmaceutically acceptable carrier.

46. The pharmaceutical composition of Claim 45, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

REMARKS

Please note that the claims pending at the time of this filing are the claims of the international application serial no. PCT/GB00/00537 as amended during the International Preliminary Examination according to PCT Article 34(2)(b).

The pending claims have been amended above to better conform to United States practice. The marked-up version of the changes to the specification and claims are attached hereto at pages 7-14, and are captioned "MARKED UP COPY OF AMENDMENTS TO THE SPECIFICATION" and "MARKED UP COPY OF AMENDMENTS TO THE CLAIMS," respectively.

It is submitted that this application is now in condition for substantive examination, which action is respectfully requested.

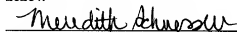
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Date of Deposit: August 17, 2001

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Box DO/EO/US, Commissioner for Patents, Washington, DC 20231.


Meredith Schuessler
Date of Signature: August 17, 2001

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MARKED UP COPY OF AMENDMENTS TO THE CLAIMS

1(Amended). An isolated nucleic acid which encodes a latency promoter, comprising a nucleic acid selected from the group consisting of: (a) the nucleic acid sequence as set forth in SEQ ID NO:1 [and which encodes a latency promoter, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS] ; and (b) [or comprising] a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1 [and which encodes a latency promoter].

2 (Amended). A nucleic acid according to Claim 1 wherein the nucleic acid sequence [which] has at least 75% homology with SEQ ID NO:1 and hybridizes [hybridises] under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

3 (Amended). A nucleic acid according to [either preceding claim] Claim 1 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

4 (Amended). A nucleic acid according to Claim 3 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of [up to a length of] 329 bp, 630 bp, 1000 bp [or] and 1500 bp.

DELETED [5. Use of a nucleic acid sequence as set forth in SEQ ID NO:1, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS or comprising a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1 as a latency promoter.]

DELETED[6. Use according to claim 5 further including any one or more of the features of claims 2 to 4.]

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7 (Amended). A recombinant DNA molecule containing at least one insert that encodes a latency promoter, comprising a nucleic acid sequence selected from the group consisting of: (a) the nucleic acid sequence as set forth in SEQ ID NO:1 [and which encodes a latency promoter, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS] ; and (b) [or comprising] a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1 [and which encodes a latency promoter].

~~DELETED~~ 8. A recombinant DNA molecule according to claim 7 further including any one or more of the features of claims 2 to 4.]

9 (Amended). A gene therapy system comprising a vector that encodes a latency promoter, comprising a nucleic acid sequence selected from the group consisting of: (a) [which includes a] the nucleic acid sequence as set forth in SEQ ID NO:1 [and which encodes a latency promoter, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS or comprising]; and (b) a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1. [and which encodes a latency promoter], wherein said system is capable of driving heterologous gene expression during periods of latent infection by the vector in a target cell population.

~~DELETED~~ 10. A gene therapy system according to claim 9 further including any one or more of the features of claims 2 to 4.]

11(Amended). A gene therapy system according to [either Claim 9 or 10] Claim 10 wherein the vector additionally comprises at least one therapeutic nucleic acid, expression of which is driven by the latency promoter.

12 (Amended). A gene therapy system according to [any one of Claims 9 to 11] Claim 9 wherein the vector is selected from the group consisting of viral vectors and [or] non-viral vectors.

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DELETED [13. Use of a gene therapy system according to any one of Claims 9 to 12 for long term gene expression.]

14 (Amended). An HVS comprising a nucleic acid sequence encoding a latency promoter, wherein the nucleic acid sequence is selected from the group consisting of: (a) [including the nucleic acid sequence] the nucleic acid sequence as set forth in SEQ ID NO:1 [and which encodes a latency promoter, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS or comprising]; and (b) a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1. [and which encodes a latency promoter], the latency promoter acting in the latent state and the sequence encoding the latency promoter being positioned so as to drive expression of at least one therapeutic nucleic acid which has been inserted in the HVS.

DELETED [15. An HVS according to claim 14 and further including any one or more of the features of claims 1 to 4, 11 or 13.]

DELETED [16. A method of manufacturing an expression vector comprising a nucleic acid according to any one of Claims 1 to 4, or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, the method comprising transfecting a cell with the nucleic acid sequence encoding the latency promoter.]

DELETED [17. A method according to Claim 16 which further comprises the steps of selecting said nucleic acid sequence and amplifying it and subsequently purifying it prior to transfecting a cell population.]

DELETED [18. A method of treatment comprising administering a therapeutically effective amount of a nucleic acid according to any one of Claims 1 to 4 or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, to an individual requiring treatment.]

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DELETED [19. A nucleic acid according to any one of Claims 1 to 4 or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, for use as a pharmaceutical.]

DELETED [20. A pharmaceutical composition comprising the nucleic acid according to any one of Claims 1 to 4 or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, and a pharmaceutically acceptable excipient, diluent or carrier.]

DELETED [21. A pharmaceutical composition according to Claim 20 that is formulated as a nasal spray, or for injection or for oral/parenteral administration.]

DELETED [22. Use of a latency promoter encoded by the nucleic acid sequence according to any one of Claims 1 to 4 or a gene therapy system according to any one of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, for the manufacture of a medicament for treating cancer.]

DELETED [23. Use of a latency promoter encoded by the nucleic acid sequence according to any one of Claims 1 to 4 or a gene therapy system according to any one of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, for the manufacture of a medicament for treating degenerative disorders.]

DELETED [24. An isolated nucleic acid encoding a latency promoter, the nucleic acid being selected from the group consisting of:

- (a) DNA having the nucleotide sequence given herein as SEQ ID NO:1 or fragment thereof and which encodes the latency promoter; and
- (b) nucleic acids which hybridize to DNA of (a) above (e.g., under stringent conditions) and which encode the latency promoter.]

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NEW CLAIMS

25. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject a nucleic acid according to Claim 1 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

26. A pharmaceutical composition comprising the nucleic acid of Claim 1 and a pharmaceutically acceptable carrier.

27. The pharmaceutical composition of Claim 26, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

28. The recombinant DNA molecule according to Claim 7 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

29. The recombinant DNA molecule according to Claim 7 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

30. The recombinant DNA molecule according to Claim 29 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

31. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the recombinant DNA molecule according to Claim 7 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

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32. A pharmaceutical composition comprising the recombinant DNA molecule of Claim 7 and a pharmaceutically acceptable carrier.

33. The pharmaceutical composition of Claim 32, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

34. The gene therapy system according to Claim 9 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

35. The gene therapy system according to Claim 9 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

36. The gene therapy system according to Claim 35 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

37. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the gene therapy system according to Claim 9 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

38. A pharmaceutical composition comprising the gene therapy system of Claim 9 and a pharmaceutically acceptable carrier.

39. The pharmaceutical composition of Claim 38, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

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40. The HVS according to Claim 14 wherein the nucleic acid sequence has at least 75% homology with SEQ ID NO:1 and hybridizes under stringent conditions of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.

41. The HVS according to Claim 14 wherein said latency promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.

42. The HVS according to Claim 41 wherein said latency promoter is encoded by a nucleic acid sequence of a length no greater than a length selected from the group consisting of 329 bp, 630 bp, 1000 bp and 1500 bp.

43. The HVS according to Claim 14, further comprising at least one therapeutic nucleic acid, expression of which is driven by the latency promoter.

44. A method of treating a disorder in a subject in need of such treatment, comprising administering to the subject the HVS according to Claim 14 in an amount effective to treat the disorder, wherein the disorder is selected from the group consisting of cancer and degenerative diseases.

45. A pharmaceutical composition comprising the HVS of Claim 14 and a pharmaceutically acceptable carrier.

46. The pharmaceutical composition of Claim 45, wherein the composition is formulated for a method of administration selected from the group consisting of nasal administration, parenteral administration, and oral administration.

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JC05 Rec'd PCT/PTO 17 AUG 2001

WO 00/49167

PCT/GB00/00537

LATENCY-ASSOCIATED REGULATORY REGION FROM HERPESVIRUS SAIMIRI (HVS)

The present invention relates to a method of virus manipulation; means therefor and products thereof which have particular, but not exclusive, application in gene therapy/vaccine development.

Background to the Invention

Herpesvirus saimiri (HVS) is a lymphotropic *rhadinovirus* (γ -2 herpesvirus) which causes persistent infection in its natural host the squirrel monkey (*Saimiri sciureus*) without causing any obvious symptoms of disease. HVS has been subdivided into three groups (A, B and C) on the basis of the sequence of the open reading frame of H. saimiri transformation-associated protein (STP) (Fleckenstein & Desrosiers, 1982; Medveczky et al., 1984). The structure of the HVS genome consists of a unique, low G+C content DNA segment (L-DNA) approximately 110kb in length, flanked by multiple tandem repeats of high G+C content DNA (H-DNA) (Albrecht et al., 1992; Bankier et al., 1985). Analysis indicates it shares limited homology with other herpesviruses. Examples of such herpesviruses include Epstein Barr Virus (EBV), bovine herpesvirus 4 and murine gammaherpesvirus 68 (MHV68) (Blubot et al., 1992; 1996; Virgin et al., 1997). The genomes of EBV, BHV, MHV68 and HVS have been shown to be generally co-linear, in that homologous sequences are found in approximately equivalent locations and in the same relative orientation. However, conserved gene blocks are separated by unique genes with respect to each virus (Virgin et al., 1997). Genes which are expressed in HVS in the latent state are currently unknown.

HVS has a number of features which make it an attractive candidate for use as a gene delivery vector. These include the potential to package and deliver in excess of 50kb of heterologous DNA, the ability to infect non-dividing cells and the maintenance of the viral genome as a stable episome in a latently infected host cell. The ability of herpes viruses to adopt a latent state in infected cells is a particularly attractive

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feature in terms of their use as gene delivery vehicles. In addition, because HVS is a non-human pathogen, it should not elicit a primary immune response on introduction into a human host. Primary immune response is a fundamental problem associated with human herpesvirus gene delivery systems which reduces the efficiency of these
5 vectors.

In our studies, we generated a recombinant HVS based on the non-transforming strain A11, which expresses the green fluorescent protein (GFP) gene (Whitehouse et al., 1998b). This virus contains the GFP gene under the control of the constitutive
10 human cytomegalovirus (HCMV) early promoter inserted into the rightmost flanking region of H-DNA. We have demonstrated that this recombinant HVS-GFP was able to infect a wide range of human cancer cell lines, including T-cell (Jurkat), pancreatic (MIAPACA), colorectal (SW480) and lung carcinoma cells (A549). Thus, we have continued investigation of this recombinant HVS as we believe it to be an ideal
15 candidate as a gene delivery vector.

The use of an efficient promoter which can drive stable long term expression of a transgene is a prerequisite for the development of any gene delivery vector. A variety of promoters have been utilised in herpes simplex virus (HSV) vectors including
20 neuronal-specific promoters such as the neurone-specific enolase promoter, the neurofilament promoter and tyrosine hydroxylase promoter, as well as viral promoters such as the HSV thymidine kinase promoter and the HCMV immediate early promoter. Studies showed, however, that these promoters are unsuitable for long term expression *in vivo*, due to promoter silencing effects (Fink et al., 1996;
25 Glorioso et al., 1992;1995). There is a need, therefore, to identify viral regulatory regions which can be used to drive stable long term expression of a transgene.

Recently, recombinant HSV-1 viruses have been produced in which expression of the *lacZ* and *lacZ-neo* cassettes are driven by the latency-associated-transcript (LAT)
30 promoter (Lachmann & Efstathiou, 1997). Peripheral infection of neurones with these viruses results in stable long-term expression of a β -galactosidase transgene for

at least 190 days post-infection. Therefore, we believe that it would be advantageous to identify and characterise HVS regulatory regions associated with latency, if they exist, to drive long term stable expression of heterologous transgenes for the future development of HVS as a gene delivery system. In the course of our investigations to
5 identify viral regulatory regions which can be used to drive stable long term expression of a transgene, we serendipitously identified a cluster of HVS genes which are apparently expressed specifically in the latent state and we provide evidence to this effect. The DNA sequence which unexpectedly drives expression of this series of transcripts has been identified. This sequence provides the advantages
10 as a promoter to drive therapeutic gene expression discussed above.

In this application, we describe the identification of a cluster of genes encoding ORF71-73 which are latently expressed in an A549 cell line stably transduced by HVS-GFP. We have characterised a region of 2000 bp immediately upstream of the
15 coding sequence of ORF73 and demonstrated that this regulatory region, when transfected into a human 293T cell line, is able to drive active expression of the GFP reporter gene. This result demonstrates that the upstream region of ORF73 contains regulatory sequences which may be utilized to drive expression of heterologous transgenes in a range of human cell lines. Therefore we believe that the ORF73
20 promoter, which drives virus-encoded gene expression whilst the HSV is present in a cell in a latent state, is an ideal choice of regulatory sequence for driving stable long term expression of a transgene in HVS-based gene delivery vectors.

Furthermore, in order to further investigate the possibility of using the ORF73
25 regulatory region as a promoter to drive long term expression of a heterologous transgene, a number of PCR fragments containing sequence immediately upstream of the ORF73 initiation codon were amplified by PCR and cloned into a reporter plasmid containing the GFP gene. These reporter constructs were transfected into the human 293T cell line and we have demonstrated that some of these fragments
30 contain a regulatory region sufficient to drive heterologous gene expression in a human 293T cell line.

We believe that *Herpesvirus saimiri* (HVS) is an attractive candidate for use as a gene therapy vector as it has the ability to enter a latent mode of infection in which the viral genome is maintained as a stable episome in the host cell. We have generated a recombinant HVS in which the gene encoding green fluorescent protein (GFP) is expressed under the control of the constitutive human cytomegalovirus (CMV) promoter (HVS-GFP). This recombinant virus is able to stably transduce a range of human cell lines including the lung carcinoma cell line, A549, and direct production of GFP. However, it is known that the human CMV promoter is not effective in many circumstances for sustaining transgene expression in gene therapy *in vivo*. We have therefore sought to identify promoters which might be functional during latent infection with the HVS vectors.

Statement of the Invention

In the broadest aspect of the invention there is provided a gene delivery system/vaccine comprising a promoter which functions in a vector gene delivery system/vaccine during periods when the gene therapy vector is present in the cell in a latent state. The present invention is capable of regulating long term gene expression in the gene delivery system/vaccine and is capable of controlling the expression of transgenes in a range of human or animal cells.

According to a first aspect of the invention there is provided a nucleic acid comprising a nucleic acid sequence which encodes a promoter and which hybridises under high stringency conditions to the nucleic acid sequence of SEQ ID NO:1, fragments and/or variants thereof, for use in gene therapy.

Preferably, hybridisation occurs under stringent conditions such as 1 x SSC, 0.1% SDS at 65°C.

Preferably, said promoter comprises a nucleic acid sequence of at least 329 bp and up to 2000 bp, more preferably said promoter comprises a nucleic acid sequence of up to

a length of 329, 630, 1000 or 1500 bp or any other selected fragment or variant thereof. It will be appreciated that it is possible that the promoter sequence of the invention may be less than 329 bp so long as the effective sequence encoding the promoter is included in the invention.

5

According to a second aspect of the invention there is provided a recombinant DNA molecule containing at least one insert comprising the nucleic acid sequence of SEQ ID NO:1, fragment or variant thereof, encoding a promoter.

- 10 Thus it will be appreciated that the invention includes nucleic acids comprising (i) a sequence of up to 2000bp which encodes the promoter, (ii) fragments of selected bp lengths within the sequence and (iii) variants thereof, as well as recombinant DNA molecules containing insert(s) of the promoter sequence therein.

- 15 According to a third aspect of the invention there is provided a gene therapy system comprising a vector which includes a nucleic acid sequence selected from the group consisting of the nucleic acid sequence of SEQ ID NO :1, and fragments and variants thereof as well as nucleic acid sequences which hybridise under high stringency conditions to the sequence of SEQ ID NO :1, or a part thereof, wherein said system is
- 20 capable of driving heterologous gene expression during periods of latent infection by the vector in a target cell population.

Preferably, the gene therapy system further includes any one or more of the features herein before described.

25

Preferably, said vector additionally comprises at least one therapeutic nucleic acid, whereby the promoter encoded by SEQ ID NO:1 or fragment or variant thereof acts to drive expression of said the at least one therapeutic nucleic acid.

- 30 Reference herein to therapeutic nucleic acid is intended to include a therapeutic gene or fragment or variant thereof.

The vector of said gene delivery system may be viral or non-viral.

Preferably, said gene therapy system is capable of long term gene expression.

- 5 Reference herein to long term gene expression includes gene expression for at least several hours and optimally at least several months, for example and without limitation, from 2 hours to six months or more.

- According to a fourth aspect of the invention there is provided use of a gene therapy
10 system as herein before described for long term gene expression.

- It will be appreciated by those skilled in the art that the invention comprises a gene therapy system and that, in preferred embodiments the vector may be either viral or non-viral. The expression of a therapeutic gene can be regulated by a promoter,
15 typically of up to at least 329 bp and up to 2000 bp, the system being capable of driving heterologous gene expression during periods of latent infection of a target cell population. Thus, foreign transgenes can be controlled by, for example, a natural promoter, which is active in the latent mode of viral infection. The specifics of the gene expression and the nature of the vector is not intended to limit the scope of the
20 application.

- According to a fifth aspect of the invention there is provided an HVS comprising a nucleic acid sequence encoding a promoter of SEQ ID NO:1, or fragment or variant thereof or a nucleic acid sequence which hybridises under high stringency conditions
25 to the sequence of SEQ ID NO:1, fragment or variant thereof, which promoter acts in the latent state, the sequence encoding for the promoter being positioned so as to drive expression of at least one therapeutic nucleic acid which has been inserted in the HVS.

- 30 The preferred embodiments of the fifth aspect of the invention include those listed in accordance with the aforementioned first and third aspects of the invention.

Preferably, the HVS of the present invention may be rendered ineffective and its activity terminated by the appropriate co-administration of an anti-herpetic pharmaceutical such as acyclovir.

- 5 According to a sixth aspect of the invention there is provided a method of manufacturing an expression vector comprising the promoter of the first aspect of the invention or the gene therapy system of the third aspect of the invention or the HVS vector of the fifth aspect of the invention, the method comprising transfecting a cell with a nucleic acid sequence encoding said promoter of SEQ ID NO:1, or fragment
10 or variant thereof or a nucleic acid sequence which hybridises under high stringency conditions to the sequence of SEQ ID NO:1 or any part thereof.

- The invention includes methods which comprise selecting the promoter and amplifying it and subsequently purifying it prior to transfecting a cell population,
15 preferably a selected target cell population.

- According to a seventh aspect of the invention there is provided a method of treatment comprising administering a therapeutically effective amount of the promoter of the first aspect of the invention or a gene therapy system of the third
20 aspect of the invention or a HVS gene therapy vector of the fifth aspect of the invention, to an individual requiring treatment.

- According to an eighth aspect there is provided the promoter of the first aspect of the invention or the gene therapy system of the third aspect of the invention or the HVS
25 vector of the fifth aspect of the invention for use as a pharmaceutical.

- According to a yet further aspect of the invention there is provided a pharmaceutical composition comprising the promoter of the first aspect of the invention or a gene therapy system of the third aspect of the invention or a HVS gene therapy vector of
30 the fifth aspect of the invention, the pharmaceutical additionally comprises a pharmaceutically acceptable excipient, diluent or carrier and ideally said

pharmaceutical can be formulated as a nasal spray, or for injection or for oral/paraenteral administration into a individual requiring treatment.

According to a yet further aspect of the invention there is provided use of the
5 promoter of the first aspect of the invention or the gene therapy system of the third aspect of the invention or the HVS vector of the fifth aspect of the invention in the manufacture of a medicament for treating cancer.

According to a yet further aspect of the invention there is provided use of the
10 promoter of the first aspect of the invention or the gene therapy system of the third aspect of the invention or the HVS vector of the fifth aspect of the invention in the manufacture of a medicament for treating degenerative disorders.

According to a yet further aspect of the present invention is an isolated nucleic acid
15 encoding a promoter, the nucleic acid may be selected from the group consisting of:

- (a) DNA having the nucleotide sequence given herein as SEQ ID NO:1 and which encodes the promoter;
- (b) nucleic acids which hybridize to DNA of (a) above (e.g., under stringent conditions) and which encode the promoter ; and

20

DNAs of the present invention include those of closely related sequences to, and having essentially the same biological properties as, the promoter disclosed herein, and particularly the DNA disclosed herein as SEQ ID NO:1. This definition is intended to encompass natural allelic variations therein. Thus, DNAs which
25 hybridize to DNA disclosed herein as SEQ ID NO:1 (or fragments or derivatives thereof which serve as hybridization probes as discussed below) and which encode the promoter of the present invention are to be included in the definition.

Conditions which will permit other DNAs which encode the promoter of the present
30 invention and hybridize to the DNA of SEQ ID NO:1 disclosed herein can be determined in accordance with known techniques. For example, hybridization of

such sequences may be carried out under conditions of reduced stringency, medium stringency or even stringent conditions (e.g., conditions represented by a wash stringency of 35-40% Formamide with 5x Denhardt's solution, 0.5% SDS and 1x SSPE at 37°C; conditions represented by a wash stringency of 40-45% Formamide with 5x Denhardt's solution, 0.5% SDS, and 1x SSPE at 42°C; and conditions represented by a wash stringency of 50% Formamide with 5x Denhardt's solution, 0.5% SDS and 1x SSPE at 42°C, respectively) to DNA of SEQ ID NO:1 disclosed herein in a standard hybridization assay. See, e.g., J. Sambrook et al., *Molecular Cloning. A Laboratory Manual* (2d Ed. 1989) (Cold Spring Harbor Laboratory). In general, sequences which code the promoter of the present invention and which hybridize to the DNA of SEQ ID NO:1 disclosed herein will be at least 75% homologous, 85% homologous, and even 95% homologous or more with SEQ ID NO:1.

The invention will now be described with reference to the following Figures wherein:

Figure 1 represents SEQ ID NO:1;

Figure. 2 illustrates expression of GFP in A549 cells from episomal HSV-GFP;

Figure. 3 illustrates a schematic representation of the map positions of restriction fragments of the HVS genome;

Figure 4 illustrates untreated or latency infected A549 cell total RNA separated on 1% denaturing agarose gels, Northern blotted and hybridized with the labelled (a) *Eco* D fragment and (b) with the labelled *Eco* J fragment, respectively of HVS genomic DNA;

Figure 5 illustrates untreated or latency infected A549 cell total RNA separated on 1% denaturing agarose gels, gel electrophoresis, Northern blotted and hybridized

with (a) the labelled *Eco* C fragment and (b) with the labelled *Kpn*E fragment, respectively of HVS genomic DNA;

Figure 6 illustrates untreated or latency infected A549 cell total RNA separated on 1% denaturing agarose gels, Northern blotted and hybridized with a) ORF71 b) ORF72 c) ORF73;

Fig.7 illustrates expression of GFP in transfected human 293T cell lines, and

Table 1 represents results obtained by Northern blot analysis.

Brief Description of the Figures

Fig.1. (SEQ ID NO:1) sequence of the 2000bp promoter.

Fig. 2. Expression of GFP in A549 cells stably transduced with a recombinant HVS

Fig. 3 A schematic representation of the map positions of restriction fragments resulting from digestion of the HVS genome with either *Eco*RI or *Kpn* I. The fragments represent the entire L-DNA region (112kb) of *H. saimiri*.

Fig. 4 Hybridization with the labelled *Eco* D fragment (a) and the labelled *Eco* J fragment (b). Each lane was loaded with 6µg of total RNA and analyzed by Northern blotting and hybridization with the labelled probe. Lane 1 contains extract from uninfected A549 cells; lane 2 - A549 cells stably transduced with the recombinant HVS-GFP virus and cultured in the presence of G418 (0.6mg/ml); lane 3 - A549 cells stably transduced with the recombinant HVS-GFP virus and cultured in the absence of G418; lane 4 - uninfected OMK cells; lane 5 - RNA extracted from OMK cells 8 hours after infection with the recombinant HVS-GFP virus; lane 6 - RNA extracted from OMK cells 16 hours after infection with the recombinant HVS-GFP virus; lane 7 - RNA extracted from OMK cells 24 hours after infection with the recombinant HVS-GFP virus; lane 8 - RNA extracted from OMK cells 48 hours after infection

with the recombinant HVS-GFP virus. Hybridization with an *Actin* probe as a control for amounts of RNA loaded, is shown below.

Fig. 5 Hybridization with the labelled *Eco* C fragment (a) and *Kpn* E fragment (b).

- 5 Each lane was loaded with 6µg of total RNA and analyzed by Northern blotting and hybridization with the labelled probe. Lane 1 contains extract from uninfected A549 cells; lane 2 - A549 cells stably transduced with the recombinant HVS-GFP virus and cultured in the presence of G418 (0.6mg/ml); lane 3 - A549 cells stably transduced with the recombinant HVS-GFP virus and cultured in the absence of G418; lane 4 -
- 10 uninfected OMK cells; lane 5 - RNA extracted from OMK cells 8 hours after infection with the recombinant HVS-GFP virus; lane 6 - RNA extracted from OMK cells 16 hours after infection with the recombinant HVS-GFP virus; lane 7 - RNA extracted from OMK cells 24 hours after infection with the recombinant HVS-GFP virus; lane 8 - RNA extracted from OMK cells 48 hours after infection with the
- 15 recombinant HVS-GFP virus. Again, hybridisation with an *Actin* probe was used as the control for RNA loading, as shown below.

Fig.6 Hybridization with a) ORF71 b) ORF72 c) ORF73. Each lane was loaded with

- 6µg of total RNA and analyzed by Northern blotting and hybridization with the
- 20 labelled probe. Lane 1 contains extract from uninfected A549 cells; lane 2 - A549 cells stably transduced with the recombinant HVS-GFP virus and cultured in the presence of G418 (0.6mg/ml); lane 3 - A549 cells stably transduced with the recombinant HVS-GFP virus and cultured in the absence of G418; lane 4 - uninfected OMK cells; lane 5 - RNA extracted from OMK cells 8 hours after
- 25 infection with the recombinant HVS-GFP virus; lane 6 - RNA extracted from OMK cells 16 hours after infection with the recombinant HVS-GFP virus; lane 7 - RNA extracted from OMK cells 24 hours after infection with the recombinant HVS-GFP virus; lane 8 - RNA extracted from OMK cells 48 hours after infection with the recombinant HVS-GFP virus. *Actin* probe controls are again shown below.

30

Fig.7 Expression of GFP in human 293T cell lines. Cells were grown to approximately 70% confluence and transfected with 2µg of the reporter plasmids p73.1-4-GFP using Lipofectamine according to the protocol described by the manufacturer, Life Technologies.

5

Materials and Methods

Viruses, cell cultures and transfections

Recombinant HVS (Strain A11) was propagated in Owl Monkey Kidney (OMK) cells which were maintained in Dulbecco's modified Eagle medium (Life Technologies) supplemented with 10% foetal calf serum. Human lung carcinoma A549 and 293T cells were maintained in Dulbecco's modified Eagle medium (Life Technologies) supplemented with 10% foetal calf serum. Jurkat cells were maintained in RPMI (Life Technologies) supplemented with 5% foetal calf serum.

15

For transfection, cells were seeded at approximately 5×10^5 cells per 35 mm diameter Petri dish 24 h prior to transfection. Plasmids used in the transfections were prepared using the Qiagen Plasmid kits according to the manufacturer's directions. Transfections were performed using LipofectamineTM (Gibco BRL) as described by the manufacturer using 2 µg of the appropriate plasmid.

20

Total RNA Extraction

Cells were lysed using Trizol reagent (Life Technologies). Chloroform (0.2ml) was then added and the solution vortex-mixed for 15s and stored at room temperature for 5 min. Samples were centrifuged for 15 min at 4°C, and the aqueous phase containing nucleic acids was precipitated using 0.5ml of isopropanol. The pellet was washed with 70% ethanol, resuspended in 20µl DEPC-treated water (0.1% solution) and stored at -70°C.

25

Northern Blot Analysis

Northern blot analysis was performed essentially as described by Sambrook et al. (1989). Total RNA was isolated from untreated or HVS-transduced A549 cells or from lytically infected OMK cells at 8, 16, 24 and 48 hours post infection, and separated by electrophoresis on 1% denaturing formaldehyde agarose gels. The RNA was transferred to Hybond-N membranes and hybridised with radiolabelled ³²P-labelled random primed probes made from restriction fragments derived from the HVS genome (Figure 3). Hybridisations were performed for 12 hours at 65°C using ExpressHybTM buffer (Clontech).

HVS Genomic Probes

The HVS genome can be cleaved with *Eco*RI and the resultant fragments cloned into the plasmid vector pACYC184 or *Kpn* I fragments can be cloned into the vectors pJC81 or pWD7 (Knust et al., 1983). These genomic fragments were excised from the vectors by digestion with either *Eco*RI or *Kpn* I. The ORF71 gene was amplified by PCR using the primer pair; ORF71F (SEQ ID NO:2) dCGC GGA TCC GGC AAG GTC ACT TCG CCC TAT CTG-3', ORF71R (SEQ ID NO:3) 5'dCCG GAA TTC CTG TGT TAC ACA TAA CAG ACT-3'. The ORF72 gene was amplified using the primer pair; ORF72F (SEQ ID NO:4) 5'dCGC GGA TCC GCT GCA ATG GCA GAT TCA CC-3'; ORF72R (SEQ ID NO:5) 5'dCCG GAA TTC GGT CTG CAG TTA GTG TTG TCA G-3'. The ORF73 gene was amplified using the primer pair ORF73F (SEQ ID NO:6) 5'dACG CGT CGA CCC ATC TAT AAT TGC AAC AAA CAC C-3'; ORF73R (SEQ ID NO:7) 5'd-CCC AAG CTT CAC ATA TAT GAA TGC TAG TGC AC-3'. The PCR (1 cycle of 5 min at 95°C; 30 cycles of 1 min at 95°C, 1 min at 55°C, 1 min at 72°C; 1 cycle of 10 min at 72°C) was performed using 2U of KlenTaq DNA Polymerase (Clontech). Probes were radio-labelled using the Megaprime kit according to the method described by the manufacturer (Amersham).

Plasmids

In order to make the reporter constructs p73.1-4GFP, 632, 1000, 1500 and 2000 bp sequences immediately upstream of the ORF73 initiation codon (Figure 1) were

amplified by PCR (1 cycle for 5 min at 95°C; 35 cycles 1 min at 95°C, 1 min at 55°C, 1 min at 72°C; one cycle for 10 min at 72°C). For p73.1GFP, the primer pair (SEQ ID NO:8) 5'dACG CGT CGA CCC ATC TAT AAT TGC AAC AAA CAC G-3'; (SEQ ID NO:9) 5'dCCC AAG CCT CAC ATA TAT GAA TGC TAG TGC AC-3' were
5 utilised. These primers incorporated terminal *Hind*III and *Sal* I restriction sites respectively, for convenient cloning of the PCR product. In order to amplify p73.2-4 the forward primers (SEQ ID NO:10) 5'dGCA CTG CAG CAC CAT CAC ATG AGG AGG TGC-3'; (SEQ ID NO:11) 5'dGCA CTG CAG CCA TGC AGC AGC CAT GCG CTG CC-3' and (SEQ ID NO:12) 5'd-GCA CTG CAG CCC AGA GAG
10 CTG GAC ACT AG-3' and the same reverse primer (SEQ ID NO:13) 5'dCGC GGA TCC CCA TCT ATA ATT GCA ACA AAC ACG-3' were used. These primers contained the restriction sites *Pst*I and *Bam*HI, respectively for convenient cloning of the PCR products. Upon digestion with the appropriate restriction enzymes, the PCR products were cloned into the reporter plasmid pEGFP (Clontech) to derive the
15 expression constructs p73.1-4-GFP, respectively.

Results

Production of stably transduced A549 cell lines with HVS-GFP.

20 In order to identify any HVS latency-associated transcripts which might exist, A549s cells were infected with HVS-GFP and cultured in the presence of G-418. After 48 hours approximately 75% of the cells were found to express the transgene and this increased to 100% by day 12. Fluorescence microscopy confirmed that the GFP protein was expressed in these cells (Fig.2.a) and Southern blot analysis on viral
25 DNA confirmed that the viral genome was maintained episomally (Fig 2.b). This cell line formed the basis of the HVS-latency model as the cells remained green, expressing the transgene for 6 months, demonstrating that HVS was stably maintained in a latent episome form (Fig 2.b).

Transcription mapping of the HVS genome in latently infected A549 cells

In order to identify which genes were expressed in the latent episomal state of HVS, Northern blot analysis was performed. Total RNA was extracted from an A549 cell line which had been stably transduced with a recombinant HVS. As controls, total RNA was extracted from a lytic infection of OMK cells at 8, 16, 24 and 48 h.p.i. and from uninfected A549 cells. Northern blots were hybridized with restriction fragments of genomic HVS DNA which spanned the complete coding region of the HVS genome between the two flanking regions of H-DNA. The location of these restriction fragments on the HVS genome is shown in Fig.3.

Rather than present each Northern blot individually we have chosen to summarize the results of the analysis in Table 1. Only a semi-quantitative estimate of signal intensity has been made, since this depends upon a number of factors including probe length, exposure time, transcript length and the specific activity of the probe. Also, since the aim of this work was simply to identify which genes are transcribed in a latent HVS infection we did not consider it necessary to accurately quantify the intensity of each signal but rather to make a qualitative assessment by comparing signal intensity in A549 cells with that in lytically infected OMK cells.

High levels of gene expression were observed in control lytic OMK cell infections when hybridized with fragments *Eco* D and *Eco* J (Figure 4). The *Eco* D fragment contains the ORF50 gene, the product of which is a strong transcriptional activator responsible for initiating expression of delayed early (DE) and late viral genes in the lytic cascade. Similarly, the *Eco* J fragment contains the ORF57 gene, which is activated by ORF50 and also activates expression of DE and late viral genes (Whitehouse et al;1997b;1998a;b). In comparison with the levels of gene expression observed in the lytically infected OMK cells, negligible levels of gene expression were detected in the stably transduced A549 cells when probed with *Eco* D or *Eco* J. Some low level of lytic gene expression may be due to a very low background of lytic replication occurring in a sub-population of the A549 cells infected with the recombinant HVS. High levels of gene expression were also observed in the lytically

infected OMK cells when probed with genomic fragments containing viral DE or late genes but again, negligible gene expression was detected in the stably transduced A549 cells when probed with the same fragments. Fig. 4 shows Northern blots using probes made from the *Eco* D and *Eco* J fragments. However, incubation of Northern blots with probes specific for either the *Eco* C or the *Kpn* E fragment detected comparable levels of a transcript approximately 6kb in length in transduced A549 cells as well as lytically infected OMK cells (Fig. 5). Both the *Eco* C and *Kpn* E genomic fragments unexpectedly share a region of overlap which contains ORFs 71-73.

ORFs 71-73 are expressed in A549 cells stably transduced with recombinant HVS

In order to further investigate the pattern of gene expression observed in the stably transduced A549 cells, Northern blot analysis was performed using specific probes for ORF 71-73. The results are shown in Fig. 6. Hybridization with each of the three probes detected two transcripts of approximately 6kb and 4.4kb in both stably transduced A549 cells and lytically infected OMK cells. The expression levels of these transcripts in the stably transduced A549 cells are comparable with levels in the lytically infected cells and are very significantly higher than the very low levels of expression detected in these cells when hybridizing with probes containing other genes expressed in the lytic mode of infection, strongly suggesting that unexpectedly these transcripts are expressed in the latent episomal state.

The region immediately upstream of ORF73 contains a promoter which is active in the latent state and which is able to drive expression of a transgene in 293T cells.

The development of HVS as an effective gene delivery vector requires the use of promoters which can drive stable long term expression of heterologous transgenes. Current promoters such as the constitutive HCMV promoter, which have been used to drive expression of GFP in our recombinant HVS, are susceptible to silencing effects which are poorly understood. A viral promoter driving expression of genes active in the latent state would be an ideal candidate for use in regulating long term expression of a foreign transgene. Having identified the active expression of ORF71-73 in cells containing episomally maintained HVS in the latent state, we investigated

whether the regulatory region upstream of ORF73 could be utilized to drive expression of a transgene.

- A number of PCR fragments encompassing 630, 1000, 1500 and 2000 bp of sequence immediately upstream of the initiation codon of ORF 73 were amplified by PCR. The primers used in the PCR were designed so that the final products contained *Hind*III and *Sal* I restriction sites at their 5' and 3' termini, respectively. Each PCR product was purified and cloned into the polylinker site of the plasmid, pEGFP to generate the reporter plasmids, p73.1-4GFP, respectively. The reporter plasmids were each transfected into the human 293T cell line and GFP expression analysed by fluorescence microscopy 48 hours post transfection. Results are shown in Figure 7. All four fragments containing the upstream sequence of ORF 73 are sufficient to drive heterologous gene expression in human 293T cells.
- The ability of *Herpesvirus saimiri* to enter a latent mode of infection in a human cell in which the viral genome is maintained as a stable episome makes this virus an attractive candidate for use as a gene delivery vector. Previously we have described a recombinant HVS containing an expression cassette in which the GFP gene is under the control of the constitutive HCMV promoter. We have shown that this virus is able to stably transduce a range of human cancer cell lines, including the lung carcinoma line, A549. In this cell line the viral genome is maintained as a stable episome and the GFP gene product is produced, demonstrating that HVS can be used as a vector to deliver foreign genes into tumour cells.
- Despite some expression of GFP, however, the HCMV promoter is not an ideal choice for driving long term stable expression of a heterologous transgene because it is susceptible to poorly understood silencing effects which reduce the activity of the promoter.
- A viral promoter which is active in the latent, non-replicative mode of HVS infection would be the ideal choice for driving stable long term gene expression in an HVS-

based gene therapy vector. Identification of genes transcribed in a latent HVS infection would help to identify candidate promoters suitable for use in driving transgene expression in an HVS-based gene delivery vector. We therefore extracted RNA from A549 cells stably transduced with the recombinant HVS-GFP virus and

5 probed with a series of fragments which span the entire coding region of the HVS genome. Hybridization with fragments containing genes encoding immediate early transactivators of the lytic transcriptional cascade detected high levels of gene expression in a lytic infection of OMK cells with the HVS-GFP virus. Similarly, hybridization with fragments containing late genes encoding structural components

10 also detected high levels of gene expression in a lytic infection of OMK cells. In comparison to the lytically infected OMK cells, negligible levels of lytic gene transcription were detected in the stably transduced A549 cells. This may be explained by considering the A549 cells as consisting of two populations of cells, one large sub-population in which the HVS-GFP virus enters a truly latent mode of

15 infection, and a much smaller sub-population of cells in which the HVS-GFP virus may enter a lytic mode of infection. Virus recovery assays from this stably transduced A549 cell line show that a very low level of viral replication does occur.

Hybridization with two specific fragments, *Eco* C and *Kpn* E, detected high levels of

20 gene expression in the stably transduced A549 cells comparable with those in infected OMK cells, a permissive cell line. Such a high level of gene expression could not be due to the very low level of lytic replication in A549 cells, since expression of other lytic cycle genes was so low as to be barely detectable in this cell line. A more likely explanation is that the fragments *Eco* C and *Kpn* E hybridize to

25 mRNA from genes which are expressed when HVS is in a latent, non-replicative mode of infection as in the majority of the A549 cells.

Analysis of the *Eco* C and *Kpn* E fragments revealed that they both contained ORF71-73. Unexpectedly, hybridization of Northern blots with PCR products of

30 ORF71, 72 and 73 detected high levels of two transcripts in both our stably transduced A549 cell line and lytically infected OMK. In each experiment,

hybridization with ORF71-73 detected the same transcripts, 6kb and 4.4kb in length, suggesting that these genes are transcribed as a polycistronic mRNA from the ORF73 promoter, since this gene lies at the rightmost end of the cluster.

- 5 From these studies we conclude that a region including ORF71-73 is expressed in both the lytic and latent modes of HVS infection. Furthermore we believe the regulatory region which expresses the latent transcript is an ideal choice for driving stable long term expression of a transgene. We therefore investigated whether the ORF73 promoter was active in a range of human cell lines to demonstrate whether it
- 10 could be used to drive a heterologous transgene. A commonly encountered problem with currently used strong promoters such as the HCMV promoter is that their activity is reduced by a silencing effect in a number of cell lines. We speculated that the regulatory region of a latently expressed HVS gene should not be susceptible to this effect and would be an ideal choice for driving expression of foreign genes.
- 15 Similar problems with silencing have been encountered in Herpes simplex virus (HSV) based vectors. In a latent infection of neurons by HSV, the virus genome is maintained in a nonlinear, episomal, nucleosome bound state and transcription is restricted to a single region encoding two highly abundant, polyadenylated latency associated transcripts (LATs) (Fraser et al., 1992; Stevens et al, 1987). The TATA
- 20 box and basal transcriptional elements which constitute the LAT promoter reside within an approximately 700bp region upstream of the 2kb major LAT (Dobson et al., 1995). This core LAT promoter is not sufficient to drive prolonged reporter gene expression during latency however, as regulatory elements found within the first transcribed 1.5kb LAT sequences have also been found to be necessary for full
- 25 promoter activity (Lokensgard et al., 1994; Perng et al, 1996). The majority of heterologous promoters used in HSV-based vectors have all resulted in either transient or low-level, long-term gene expression in only a small proportion of transduced cells (Bloom et al.,1995; Ecob-Prince et al., 1995; Lachmann et al., 1996). Recently, however, the upstream and downstream elements of the LAT
- 30 promoter have been used to drive expression of *lacZ* and *lacZ-neo* reporter genes in a recombinant HSV-1. After peripheral infection this recombinant HSV was capable of

driving stable, long-term expression of β -galactosidase in the peripheral nervous system of mice for at least 190 days postinfection (Lachmann et al., 1997).

- In order to determine whether regulatory sequences governing the expression of ORF73 could be used similarly to drive foreign gene expression we constructed reporter plasmids, p73.1-4GFP, in which the GFP gene was placed under the control of the various PCR fragments encoding sequences immediately upstream of the ORF 73 gene. Transfection of the reporter constructs into 293T cells showed that GFP was expressed at high levels, indicating that the minimal functional ORF73 promoter was contained within the 632bp upstream of ORF73 and that this promoter could drive expression of a heterologous transgene in a human cell line.

- In conclusion, we have found three genes, ORF71, 72, and 73 which are expressed by HVS when maintained as a stable, non-replicating episome in human A549 lung cancer cells. We have also shown that the upstream regulatory sequences of the ORF73 coding region are sufficient to drive expression of a foreign transgene in a human 293T cell line. We believe that this is of crucial importance to the development of HVS as an effective gene therapy vector since foreign transgenes can now be placed under the control of a natural HVS promoter which is active in the latent mode of viral infection.

25

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- 30

AMENDED CLAIMS

- 1 An isolated nucleic acid comprising the nucleic acid sequence as set forth in
SEQ ID NO:1 and which encodes a latency promoter, the nucleic acid consisting of a
5 sequence positioned upstream of the initiation codon of ORF 73 of HVS or
comprising a nucleic acid sequence which has at least 75% homology with SEQ ID
NO:1 and which encodes a latency promoter.
2. A nucleic acid according to Claim 1 wherein the nucleic acid sequence which
10 has at least 75% homology with SEQ ID NO:1 hybridises under stringent conditions
of 1 x SSC, 0.1% SDS at 65°C to the sequence as set forth in SEQ ID NO:1.
3. A nucleic acid according to either preceding claim wherein said latency
promoter is encoded by a nucleic acid sequence of at least 329 bp and up to 2000 bp.
- 15 4. A nucleic acid according to Claim 3 wherein said latency promoter is encoded
by a nucleic acid sequence of up to a length of 329, 630, 1000 or 1500 bp.
5. Use of a nucleic acid sequence as set forth in SEQ ID NO:1, the nucleic acid
20 consisting of a sequence positioned upstream of the initiation codon of ORF 73 of
HVS or comprising a nucleic acid sequence which has at least 75% homology with
SEQ ID NO:1 as a latency promoter.
6. Use according to claim 5 further including any one or more of the features of
25 claims 2 to 4.
7. A recombinant DNA molecule containing at least one insert comprising the
nucleic acid sequence as set forth in SEQ ID NO:1 and which encodes a latency
promoter, the nucleic acid consisting of a sequence positioned upstream of the
30 initiation codon of ORF 73 of HVS or comprising a nucleic acid sequence which has
at least 75% homology with SEQ ID NO:1 and which encodes a latency promoter.

8. A recombinant DNA molecule according to claim 7 further including any one or more of the features of claims 2 to 4.
9. A gene therapy system comprising a vector which includes a nucleic acid sequence as set forth in SEQ ID NO:1 and which encodes a latency promoter, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS or comprising a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1. and which encodes a latency promoter, wherein said system is capable of driving heterologous gene expression during periods of latent infection by the vector in a target cell population.
10. A gene therapy system according to claim 9 further including any one or more of the features of claims 2 to 4.
11. A gene therapy system according to either Claim 9 or 10 wherein the vector additionally comprises at least one therapeutic nucleic acid, expression of which is driven by the latency promoter.
12. A gene therapy system according to any one of Claims 9 to 11 wherein the vector is viral or non-viral.
13. Use of a gene therapy system according to any one of Claims 9 to 12 for long term gene expression.
14. An HVS including the nucleic acid sequence nucleic acid sequence as set forth in SEQ ID NO:1 and which encodes a latency promoter, the nucleic acid consisting of a sequence positioned upstream of the initiation codon of ORF 73 of HVS or comprising a nucleic acid sequence which has at least 75% homology with SEQ ID NO:1. and which encodes a latency promoter, the latency promoter acting in the latent state and the sequence encoding the latency promoter being positioned so

as to drive expression of at least one therapeutic nucleic acid which has been inserted in the HVS.

15. An HVS according to claim 14 and further including any one or more of the
5 features of claims 1 to 4, 11 or 13.

16. A method of manufacturing an expression vector comprising a nucleic acid according to any one of Claims 1 to 4, or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, the method
10 comprising transfecting a cell with the nucleic acid sequence encoding the latency promoter.

17. A method according to Claim 16 which further comprises the steps of selecting said nucleic acid sequence and amplifying it and subsequently purifying it
15 prior to transfecting a cell population.

18. A method of treatment comprising administering a therapeutically effective amount of a nucleic acid according to any one of Claims 1 to 4 or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim
20 14 or 15, to an individual requiring treatment.

19. A nucleic acid according to any one of Claims 1 to 4 or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, for use as a pharmaceutical.
25

20. A pharmaceutical composition comprising the nucleic acid according to any one of Claims 1 to 4 or a gene therapy system according to any of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, and a pharmaceutically acceptable excipient, diluent or carrier.
30

21. A pharmaceutical composition according to Claim 20 that is formulated as a nasal spray, or for injection or for oral/parenteral administration.

22. Use of a latency promoter encoded by the nucleic acid sequence according to any one of Claims 1 to 4 or a gene therapy system according to any one of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, for the manufacture of a medicament for treating cancer.

23. Use of a latency promoter encoded by the nucleic acid sequence according to any one of Claims 1 to 4 or a gene therapy system according to any one of Claims 9 to 12 or a HVS vector according to either Claim 14 or 15, for the manufacture of a medicament for treating degenerative disorders.

24. An isolated nucleic acid encoding a latency promoter, the nucleic acid being selected from the group consisting of:

- (a) DNA having the nucleotide sequence given herein as SEQ ID NO:1 or fragment thereof and which encodes the latency promoter; and
- (b) nucleic acids which hybridize to DNA of (a) above (e.g., under stringent conditions) and which encode the latency promoter.

25 P32II42wo1.amendedclaims

CORRECTED VERSION

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For two-letter codes and other abbreviations, refer to the "Guid-
ance Notes on Codes and Abbreviations" appearing at the begin-
ning of each regular issue of the PCT Gazette.

(54) Title: LATENCY-ASSOCIATED REGULATORY REGION FROM HERPESVIRUS SAIMIRI (HVS)

(57) Abstract: A nucleic acid encoding a promoter and comprising a nucleic acid sequence of SEQ ID NO:1, fragments and/or
variants thereof, for use in gene therapy derived from the Herpesvirus saimiri (HVS) ORF73 (ECLF1) gene. The invention also
includes a gene therapy system and an HVS vector system including the promoter.

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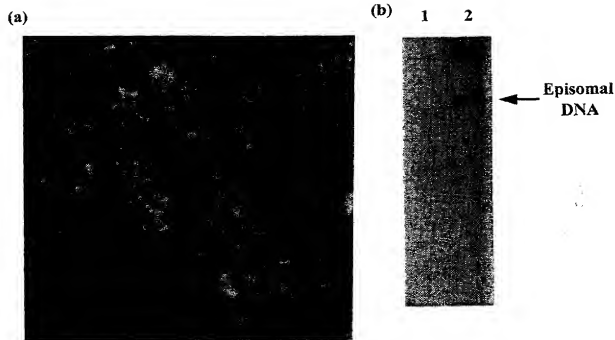
Latency-associated regulatory region
(Initiation codon of ORF 73 shown in bold)

FIGURE 1 : SEQ ID NO: 1

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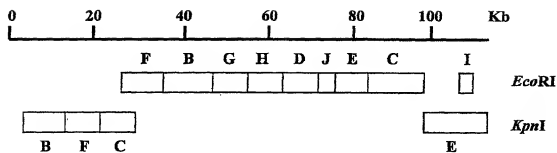
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FIGURE 2



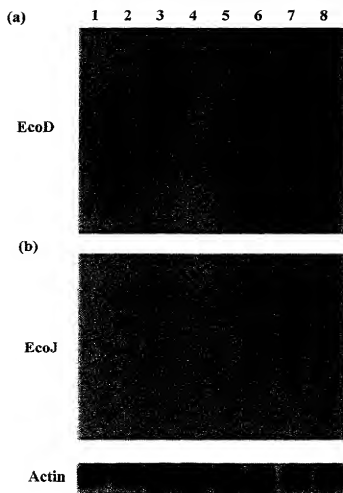
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FIGURE 3



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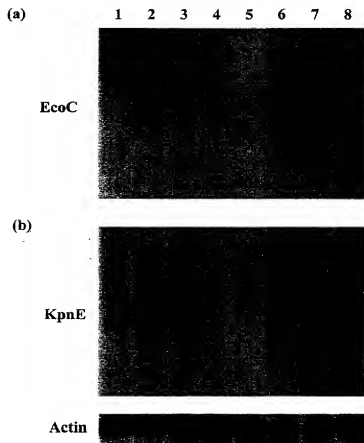
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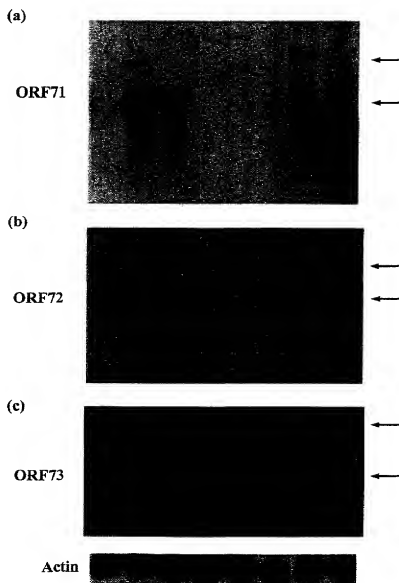
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Figure 5



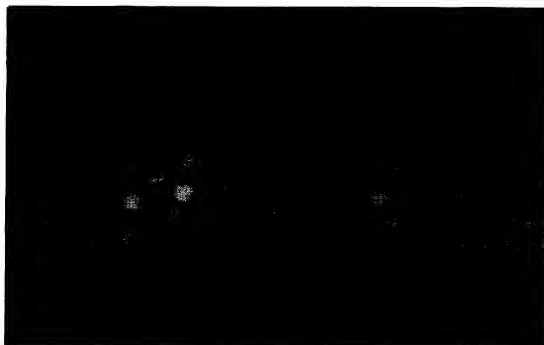
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Figure 6



208250-026ET660

FIGURE 7



09913970.032802

Table 1.

(ND = not determined; vw = very weak level of expression)

		Green-A549	Green Jurkat	Green MLAPACA	Green SW480
KpnB	vw	-	-	-	-
KpnC	vw	ND	ND	ND	ND
KpnE	+	ND	ND	ND	ND
KpnF	vw	-	-	-	-
EcoC	+	-	-	-	-
EcoD	vw	-	-	-	-
EcoE	vw	-	-	-	-
EcoF	vw	-	-	-	vw
EcoG	vw	-	-	-	-
EcoH	vw	-	-	-	-
EcoJ	vw	-	-	-	-



4

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

Attorney Docket No. 9052-87

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled LATENCY-ASSOCIATED REGULATORY REGION FROM HERPESVIRUS SAIMIRI (HVS),

the specification of which

☐ is attached hereto

OR

☒ was filed on February 18, 2000 as United States Application No. or PCT International Application Number PCT/GB00/00537 and was amended on August 17, 2001.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate, or of any PCT International application having a filing date before that of the application on which priority is claimed.

9903694.9	GB	02/19/1999	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Number	Country	MM/DD/YYYY Filed	Priority Claimed

			<input type="checkbox"/> Yes <input type="checkbox"/> No
Number	Country	MM/DD/YYYY Filed	Priority Claimed

09913970-032802

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

None	
Application Number(s)	Filing Date (MM/DD/YYYY)

Application Number(s)	Filing Date (MM/DD/YYYY)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application (37 C.F.R. § 1.63(d)).

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Appln. Serial No.	Filing Date	Status Patented/Pending/Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

09913970-032802

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